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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,777	12/11/2003	Sam Paris	29123/38991A	1830
4743	7590	09/29/2004	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 6300 SEARS TOWER 233 S. WACKER DRIVE CHICAGO, IL 60606			PRUCHNIC, STANLEY J	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/734,777

Applicant(s)

PARIS ET AL.

Examiner

Stanley J. Pruchnic, Jr.

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/30/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishida *et al.* (U. S. Patent No. 3559965 A, hereinafter **ISHIDA**).

**ISHIDA** discloses a method of measuring the temperature of a moving filament 5 as claimed by Applicant in Claims 25, 27, 28 and 29, comprising:

moving the filament 5 through a baffle having at least one fin 4 (see the Figs. reproduced below, and see Col. 2, Lines 17-27) and at least one aperture 6;

reducing (Col. 1, Lines 37-42) a fluid film associated with the moving filament;

moving the filament through a temperature measuring device having a body including an inlet and an outlet for entry and exit of the moving filament; and

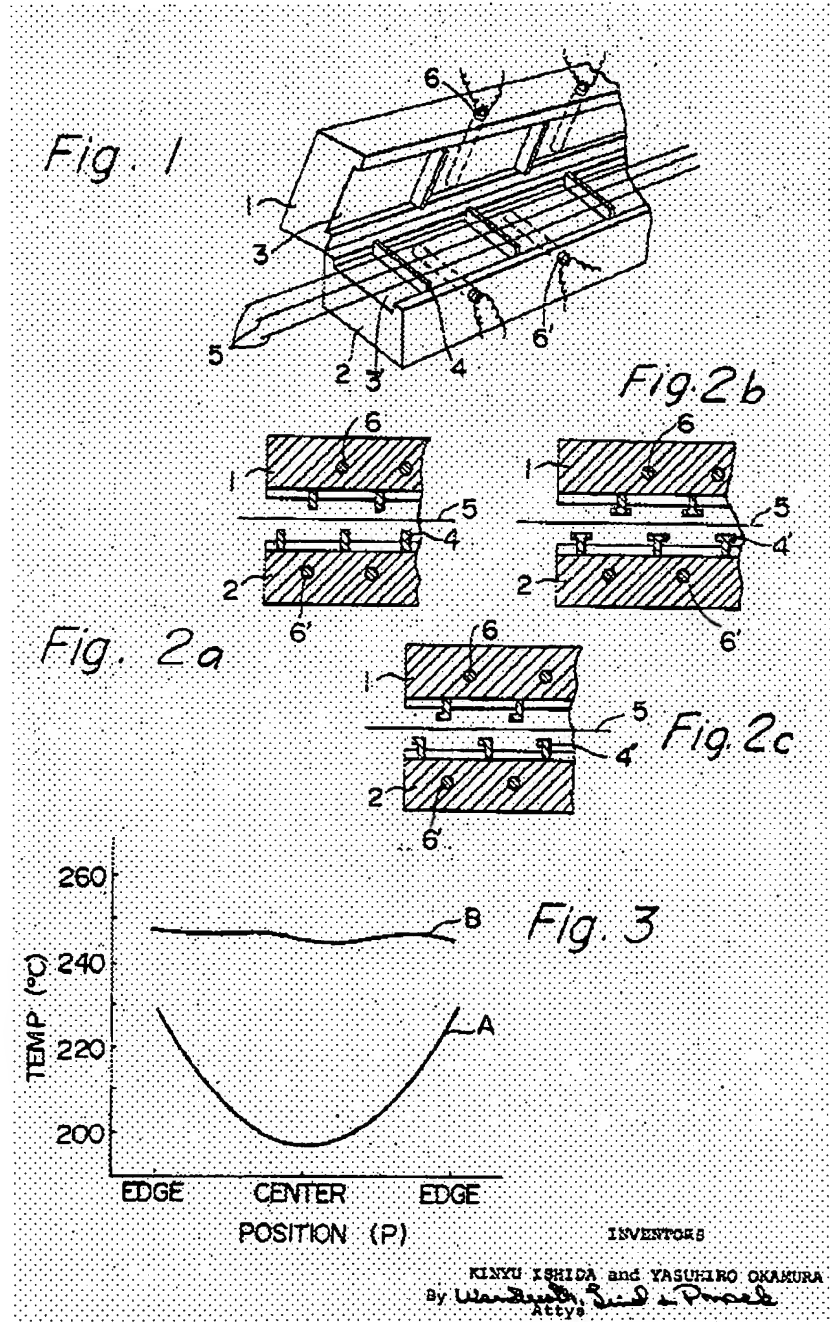
measuring (Col. 1, Lines 60-68) the temperature of the moving filament with the temperature measuring device.

Further regarding Claim 26: the method of **ISHIDA** further includes the limitation of guiding the filament 5 with a filament guide, since the filament is confined within the slit defined by the grooves 3, 3', the filaments being confined to that space (Col. 1, Lines 69-75), thus the edges of the grooves 3, 3' function as a filament guide, of guiding the filament as claimed by Applicant.

Further regarding Claims 27-29: **ISHIDA** discloses moving (Col. 1, Lines 69-74) a first portion 2 of the baffle relative to a second portion 1 of the baffle, thereby at least partially enclosing the filament in the baffle as claimed by Applicant in Claim 27;

the method inherently including inserting (See Fig. 1) the filament into the baffle  
as claimed by Applicant in Claim 28; and

the method further including (see Col. 1, Lines 73-75 and Col. 2, Lines 1-4)  
heating the baffle as claimed by Applicant in Claim 29.



***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 1-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over **ISHIDA**.

**ISHIDA** discloses or suggests a temperature measuring device for measuring the temperature of a moving filament as claimed by Applicant in Claims 1-13 and a baffle for use with a temperature measuring device for measuring the temperature of a moving filament as claimed by Applicant in Claims 14-24, comprising:

a body having an inlet (Col. 1, Lines 19-48) and an outlet for entry and exit of the moving filament 5; and

a baffle, the baffle including at least one fin 4 (Col. 2, Lines 17-27) and at least one aperture 6 adapted to reduce (Col. 1, Lines 37-42) a fluid film associated with the moving filament 5.

Moreover, **ISHIDA** discloses heating elements (6, 6') may be resistors or hollow spaces (apertures) permitting heating fluids to flow through (Col. 2, Lines 1-4). Thus **ISHIDA** discloses the baffle is heated, thereby preheating air that may enter the body of the temperature measuring device, as claimed by Applicant in **Claims 1, 12, 14 and 23**, where the "body of the temperature measuring device" is considered to be the region described below as having an even transverse temperature distribution.

Further regarding **Claims 2-3 and 14-15**: **ISHIDA** discloses the temperature measuring device and baffle including a bore formed by grooves (3, 3') disposed between the inlet and the outlet of the baffle for receiving the moving filament and also for inserting and removing the filament from the baffle as claimed by Applicant.

Further regarding **Claims 4-5 and 16**: **ISHIDA** discloses the temperature measuring device including a guide disposed in the baffle for guiding the moving filament, since the filament is confined within the bore defined by the grooves 3, 3', the filaments being confined to that space (Col. 1, Lines 69-75), thus the edges of the grooves 3, 3' function as a filament guide, and the guide is disposed along a bore in the baffle as claimed by Applicant.

Further regarding **Claims 7-8 and 18-19**: **ISHIDA** discloses the at least one aperture 6 provides a pathway to an exterior of the baffle; and the at least one aperture 6 is an area 6 disposed between a first fin 4 and a second fin 4 (Fig. 1).

Further regarding **Claims 9-11 and 20-22**: **ISHIDA** discloses the baffle includes a first portion (2) that is moveable relative to a second portion (1) and the second portion (1) of the baffle includes a lid that at least partially encloses the filament in the baffle.

And further regarding claims 11 and 22: the first and the second portions of the baffle each include at least one fin 4 and at least one aperture 6 (See Fig. 1).

Further regarding **Claims 13 and 24**: **ISHIDA** discloses the at least one aperture in the baffle does not open to a top of the baffle, considering that it opens on a side, the lid 1 considered to define a top.

Further regarding **Claims 6 and 17**: **ISHIDA** does not explicitly disclose the limitation wherein the baffle is mounted on the body near the inlet of the body.

To summarize, **ISHIDA** discloses or suggests all the limitations of **Claims 1-13**, as claimed by applicant, except **ISHIDA** does not explicitly disclose the baffle preceding the inlet as claimed by Applicant in Claim 1. Instead, the baffle (comprising fins 4) is distributed throughout the entire interior (Col. 1, Lines 19-48, and *following*). Furthermore, **ISHIDA** does not explicitly disclose the limitation wherein the baffle is mounted on the body near the inlet of the body. Instead, the baffle and body are considered to be an integral device.

**ISHIDA** discloses that the effect of the buffer plates (baffle fins 4) is better for a greater number of fins (Col. 2, Lines 26-27); and further that (Col. 2, Lines 49-51) unevenness of temperature measured transversely of the (opening) slit disappears.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a heating zone inlet to be located in that portion of the device after which the transverse temperature has evened out in order to consistently heat the filament 5 (in the region between the heating zone inlet and the outlet, which then would be considered the "body" portion) as taught by **ISHIDA**.

**ISHIDA**, as described above, discloses or suggests an integral baffle portion and body portion, and thus does not explicitly suggest the device wherein the baffle is mounted on the body near the inlet of the body. The limitation wherein the baffle portion is mounted on the body near the inlet of the body is considered met by the structure disclosed by **ISHIDA** because it has been held that the mere fact that a given structure is integral does not preclude its consisting of various elements. *Nerwin v. Erlichman*, 168 USPQ 177, 179 (PTO Bd. Of Int. 1969). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the integral baffle portion and body portion disclosed by **ISHIDA** in separable parts in order to be able to separate the baffle portion from the body portion for maintenance or modification of one of the parts, when the other does not require maintenance or modification, as is well known in the art.

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in a form PTO-892 and not mentioned above disclose related temperature measurement devices and methods. Matsumoto et al. (US Pat. No. 3,430,492 A) is related to the GB patent cited by Applicant, which measures the temperature of a moving filament.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stanley J. Pruchnic, Jr., whose telephone number is **(571) 272-2248**. The examiner can normally be reached on weekdays (Monday through Friday) from 7:30 AM to 4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. F. Gutierrez can be reached at **(571) 272-2245**.



Art Unit: 2859

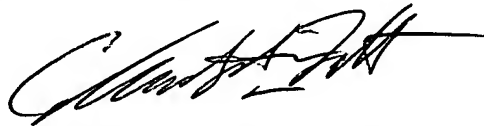
The **Official FAX** number for Technology Center 2800 is **(703) 872-9306** for **all official communications**.

Any inquiry of a general nature or relating to the status of this application or proceeding may be directed to the official USPTO website at **<http://www.uspto.gov/>** or you may call the **USPTO Call Center** at **800-786-9199** or 703-308-4357. The Technology Center 2800 Customer Service FAX phone number is (703) 872-9317.

The cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov/)), from the Office of Public Records and from commercial sources.

Private PAIR provides external customers Internet-based access to patent application status and history information as well as the ability to view the scanned images of each customer's own application file folder(s).

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9/24/04**

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